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ORIGINAL

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VIA HAND DELIVERY

October 11, 2002

EX PARTE

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
TW-A325
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

OCT 11 2002

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Re: Oral *Ex Parte* Presentation
CC Docket No. 01-338

Dear Ms. Dortch:

On October 10, 2002, Donna N. Lampert and the undersigned, both of Lampert & O'Connor, P.C., on behalf of AOL Time Warner Inc. met with the following, all of the Wireline Competition Bureau's Competition Policy Division: Tom Navin, Deputy Chief; Jeremy Miller; Rob Tanner and Elizabeth Yockus.

In the meeting, we discussed today's regulatory, legal, and business framework whereby consumers acquire DSL-based broadband Internet access services from ISPs who are, in turn, wholesale ADSL customers of the ILECs. We also explained that the ILECs provide over 97% of DSL services and serve as the primary provider of wholesale high speed transmission services used by ISPs as an input to their broadband Internet access information services. We explained that nothing in *USTA v. FCC*, which directs the FCC to consider the impact of cable modem service when analyzing the need for line sharing pursuant to Section 251 of the Act, should alter the Commission's longstanding regulatory classification of DSL services. Because cable operators do not offer transmission services to Internet Service Providers ("ISPs"), but rather offer an unregulated retail information service to end users, cable modem service offers no basis to alter the current classification of incumbent local exchange carrier ("ILEC") wholesale broadband services as telecommunications services

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Pursuant to Section 1.1206(b) (2) of the Commission's Rules, two copies of this Notice are being provided to you for inclusion in the public record in each of the above-captioned proceedings. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Linda L. Kent

cc: Jeremy Miller
 Tom Navin
 Rob Tanner
 Elizabeth Yockus